

JOURNAL OF THE SENATE

NINETIETH SESSION

THIRTY-NINTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Monday, March 30, 2015

The Senate convened at 10:00 a.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Rev. Mercy Hobbs, followed by the Pledge of Allegiance led by Senate pages Andrew Silva and Abby Simon.

Roll Call: All members present except Sens. Buhl-O'Donnell, Heineman (Phyllis), and Rampelberg who were excused.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the thirty-eighth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

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1 March 20, 2015

2 The Honorable Matt Michels
3 President of the Senate
4 500 East Capitol Avenue
5 Pierre, SD 57501-5070

6 Dear Mr. President and Members of the Senate:

7 I respectfully return to you Senate Bill 100 with my VETO.

8 Senate Bill 100 is entitled, "An Act to create a leased residential property classification."

9 South Dakota has three classes of property for purposes of taxation: nonagricultural,
10 agricultural, and owner-occupied. Senate Bill 100 creates a NEW fourth class of property,
11 "leased residential property." This class would include "any real estate or single-family dwelling
12 or structure consisting of two or more family units that are leased or rented."

13 The only reason property is divided into separate classes is for purposes of taxation, specifically
14 for school district general fund levy purposes. While Senate Bill 100 does not create a different
15 rate of taxation for leased residential properties, the proponents' stated intent is eventually to
16 seek a separate levy for property in this class.

17 The bill's proponents advance two contradictory reasons for this change. First, they argue that
18 those living in rental properties should enjoy the same property tax relief that homeowners
19 receive. It is easy to sympathize with that argument.

20 Secondly, proponents claim that tax relief would lead to more development of "affordable"
21 leased residential property. That can only be true, however, if landlords intend to retain the
22 property tax relief as income, rather than pass it along to their renters in the form of lower rents.

23 These two contradictory arguments reveal the problem with this proposal. There is no way to
24 guarantee that property tax relief for leased residential property landlords will find its way to
25 tenants. This is the reason leased residential property was not included in the property tax relief
26 proposals in 1995, and twenty years later, it is a reason to oppose Senate Bill 100.

27 Senate Bill 100 is a first step toward a different property tax levy for leased residential property
28 - a change that will shift the property tax burden onto agricultural, nonagricultural, and owner
29 occupied property taxpayers, without any guarantee of savings for residents of leased properties.
30 For that reason, I oppose this bill and I ask that you sustain my veto.

31 Respectfully submitted,
32 Dennis Daugaard
33 Governor

1 March 20, 2015

2 The Honorable Matt Michels
3 President of the Senate
4 500 East Capitol Avenue
5 Pierre, SD 57501-5070

6 Dear Mr. President and Members of the Senate:

7 I respectfully return to you Senate Bill 136 with my VETO.

8 Senate Bill 136 is entitled, "An Act to exclude certain municipal taxes from the gross receipts
9 used to determine the tax liability for customers served by electric cooperatives and electric
10 utilities."

11 I do not accept the argument that the current taxation system imposes a double tax. Rural
12 electric companies are in a similar situation to thousands of businesses throughout South
13 Dakota.

14 Consider a barbershop. After giving a haircut, the barber collects state and municipal sales tax
15 on the entire fee. That fee is not pure profit. The barber uses that income to cover all business
16 expenses, including real property taxes on an owned building.

17 Whether it is a barbershop, grocery store, clothing store, or law practice - any business includes
18 its business expenses, including property taxes, in the prices it charges. All of these businesses
19 collect sales and use tax on the entire purchase price. In fact, SDCL 10-45-1.14(2) specifically
20 states that businesses may not deduct "taxes imposed on the retailer" when calculating sales tax.

21 Rural electric companies are in exactly the same situation as those other businesses. The only
22 difference is that property taxes are assessed on rural electric companies in a different way.
23 Rather than paying a property tax on poles, lines and other fixed assets, they pay a gross receipts
24 tax "in lieu of property tax" based on retail and wholesale electric energy. If a rural electric
25 company's territory includes an area within a municipality, the company may make a similar
26 payment to the municipality.

27 Senate Bill 136 would create a special exemption for rural electric companies that no other
28 South Dakota business is given. It would allow a rural electric company to deduct its payment
29 in lieu of property taxes from its gross receipts before paying state and municipal sales tax.

30 Creating this special dispensation is contrary to the broad based sales tax principles that are the
31 foundation of South Dakota's sales tax, the primary source of state government funds, and could
32 easily lead to other businesses requesting similar exemptions in future years.

1 South Dakota should not create a special tax calculation rule for rural electric companies that
2 no other South Dakota business is given. I oppose this bill and I ask that you sustain my veto.

3 Respectfully submitted,
4 Dennis Daugaard
5 Governor

6 March 20, 2015

7 The Honorable Matt Michels
8 President of the Senate
9 500 East Capitol Avenue
10 Pierre, SD 57501-5070

11 Dear Mr. President and Members of the Senate:

12 I respectfully return to you Senate Bill 159 with my VETO.

13 Senate Bill 159 is entitled, "An Act to exempt certain amateur sports coaches from sales and use
14 tax."

15 South Dakota has a very broad based sales tax which is imposed on the sale of tangible personal
16 property, services, and products transferred electronically. Our broad base has made the sales
17 tax a steady, reliable source of revenue even in times of economic distress. As other states see
18 wide swings in revenue during changing economic times, South Dakota has one of the most
19 stable revenue streams in the nation.

20 South Dakota's sales tax rate has been four percent since 1969, with the exception of temporary
21 one percent increases to fund the purchase of railroad property and to initially create the REDI
22 Fund. A stable sales tax rate is an integral part of South Dakota's tax friendly climate. The rate
23 remains low because everyone pays their fair share.

24 Exemptions to the sales tax base, such as Senate Bill 159, erode the sales tax base and diminish
25 a steady, reliable source of revenue for our State. Senate Bill 159's exemption benefits a select
26 group and could lead to additional exemption requests in the future. We must resist any attempt
27 to erode the sales tax base and must work to keep the sales tax base as broad, and therefore as
28 stable, as possible.

29 In addition, Senate Bill 159's exemption creates a privilege to the amateur baseball teams
30 sponsored by select organizations, specifically American Legion and VFW organizations. While
31 I admire these organizations and appreciate the work they do, it is bad tax policy to exempt
32 coaches in these organizations, while continuing to tax other amateur baseball coaches.

1 South Dakota should protect our sales tax as a broad, steady, reliable revenue source. I ask that
2 you sustain my veto.

3 Respectfully submitted,
4 Dennis Daugaard
5 Governor

6 **REPORTS OF JOINT-SELECT COMMITTEES**

7 MR. PRESIDENT:

8 Your Joint-Select Committee appointed to consider the matter of adjournment sine die of
9 the Ninetieth Legislative Session respectfully reports that the Senate and House of
10 Representatives adjourn sine die at the hour of 11:54 a.m., March 30, 2015.

11 Respectfully submitted,	Respectfully submitted,
12 Dean Wink	Ernie Otten
13 Brian Gosch	Deb Soholt
14 Spencer Hawley	Billie Sutton
15 House Committee	Senate Committee

16 Also MR. PRESIDENT:

17 Your Joint-Select Committee appointed to wait upon his Excellency, the Governor, to
18 inform him that the Legislature has completed its labors and is ready to adjourn sine die and to
19 ascertain if he has any further communications to make to the Legislature, respectfully reports
20 that it has performed the duty assigned to it and has been informed by his Excellency, the
21 Governor, that he will not appear for the closing of the Ninetieth Legislative Session.

22 Respectfully submitted,	Respectfully submitted,
23 Dean Wink	Corey Brown
24 Brian Gosch	Tim Rave
25 Spencer Hawley	Billie Sutton
26 House Committee	Senate Committee

27 **MESSAGES FROM THE HOUSE**

28 MR. PRESIDENT:

29 I have the honor to inform your honorable body that the House has adopted the report of
30 the Joint-Select Committee for the purpose of informing his Excellency, the Governor, that the
31 Legislature has completed its labors, is ready to adjourn sine die, and to ascertain if he has any
32 further communications to make to the Legislature.

1 Also MR. PRESIDENT:

2 I have the honor to inform your honorable body that the House has adopted the report of
3 the Joint-Select Committee for the purpose of fixing the time of adjournment sine die for the
4 Ninetieth Legislative Session.

5 Respectfully,
6 Arlene Kvislen, Chief Clerk

7 **CONSIDERATION OF EXECUTIVE VETOES AND RECOMMENDATIONS**

8 The Senate proceeded to the reconsideration of SB 100 pursuant to the veto of the
9 Governor and the veto message found on page 737 of the Senate Journal as provided in Article
10 IV, Section 4, of the Constitution of the State of South Dakota.

11 The question being "Shall SB 100 pass, the veto of the Governor notwithstanding?"

12 And the roll being called:

13 Yeas 22, Nays 10, Excused 3, Absent 0

14 Yeas:

15 Bradford; Curd; Frerichs; Greenfield (Brock); Haggard (Jenna); Haverly; Heinert; Holien;
16 Hunhoff (Bernie); Jensen (Phil); Lederman; Novstrup (David); Omdahl; Otten (Ernie); Parsley;
17 Peters; Rave; Rusch; Soholt; Sutton; Tidemann; Van Gerpen

18 Nays:

19 Brown; Cammack; Ewing; Monroe; Olson; Peterson (Jim); Solano; Tieszen; Vehle; White

20 Excused:

21 Buhl O'Donnell; Heineman (Phyllis); Rampelberg

22 So the bill not having received an affirmative vote of a two-thirds majority of the members-
23 elect, the President declared the bill lost, sustaining the Governor's veto.

24 The Senate proceeded to the reconsideration of SB 136 pursuant to the veto of the
25 Governor and the veto message found on page 738 of the Senate Journal as provided in Article
26 IV, Section 4, of the Constitution of the State of South Dakota.

27 The question being "Shall SB 136 pass, the veto of the Governor notwithstanding?"

28 And the roll being called:

29 Yeas 31, Nays 1, Excused 3, Absent 0

1 Yeas:

2 Bradford; Brown; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock); Haggar (Jenna);
3 Haverly; Heinert; Holien; Hunhoff (Bernie); Jensen (Phil); Lederman; Monroe; Novstrup
4 (David); Olson; Omdahl; Otten (Ernie); Parsley; Peters; Peterson (Jim); Rave; Rusch; Soholt;
5 Solano; Sutton; Tidemann; Tieszen; Van Gerpen; White

6 Nays:

7 Vehle

8 Excused:

9 Buhl O'Donnell; Heineman (Phyllis); Rampelberg

10 So the bill having received an affirmative vote of a two-thirds majority of the members-
11 elect, the President declared the bill passed, the veto of the Governor notwithstanding.

12 The Senate proceeded to the reconsideration of SB 159 pursuant to the veto of the
13 Governor and the veto message found on page 739 of the Senate Journal as provided in Article
14 IV, Section 4, of the Constitution of the State of South Dakota.

15 The question being "Shall SB 159 pass, the veto of the Governor notwithstanding?"

16 And the roll being called:

17 Yeas 21, Nays 11, Excused 3, Absent 0

18 Yeas:

19 Bradford; Brown; Curd; Frerichs; Greenfield (Brock); Haggar (Jenna); Haverly; Holien;
20 Hunhoff (Bernie); Jensen (Phil); Lederman; Novstrup (David); Olson; Parsley; Peters; Peterson
21 (Jim); Rave; Soholt; Van Gerpen; Vehle; White

22 Nays:

23 Cammack; Ewing; Heinert; Monroe; Omdahl; Otten (Ernie); Rusch; Solano; Sutton; Tidemann;
24 Tieszen

25 Excused:

26 Buhl O'Donnell; Heineman (Phyllis); Rampelberg

27 So the bill not having received an affirmative vote of a two-thirds majority of the members-
28 elect, the President declared the bill lost, sustaining the Governor's veto.

CONSIDERATION OF REPORTS OF JOINT-SELECT COMMITTEES

Sen. Rave moved that the report of the Joint-Select Committee relative to fixing the time to adjourn sine die be adopted.

Which motion prevailed.

Sen. Rave moved that the report of the Joint-Select Committee relative to informing the Governor that the Legislature has completed its labors and is ready to ascertain if he has any further communications to make to the Legislature be adopted.

Which motion prevailed.

There being no objection, the Senate reverted to Order of Business No. 5.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Senate has, pursuant to the Governor's veto of SB 100, sustained that veto and delivered the same to her Excellency, the Secretary of State, for filing at 11:32 a.m., March 30, 2015.

Also MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Senate has, pursuant to the Governor's veto of SB 159, sustained that veto and delivered the same to her Excellency, the Secretary of State, for filing at 11:38 a.m., March 30, 2015.

Also MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the House and Senate have, pursuant to the Governor's veto of SB 136, overridden that veto and delivered the same to her Excellency, the Secretary of State, for filing at 11:47 a.m., March 30, 2015.

Respectfully submitted,
Corey Brown, Chair

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

I have the honor to inform your honorable body that the House has passed SB 136, the Governor's veto notwithstanding.

Respectfully,
Arlene Kvislen, Chief Clerk

The following prayer was offered by the Reverend Mercy Hobbs

Let us pray

Gracious God, as we have come to the end of the 90th Legislative Session for the State of South Dakota, we pray that laws that have been passed have been done so for the good of the people that these Senators represent.

We pray that during the interim these elected officials will continue to listen to the concerns of their constituents. We pray that discussion of the issues will be encouraged during this time. Gracious God, continue to guide these Senators in the spirit of wisdom and understanding, inspiring them to always be willing to listen and address what the needs of the people are.

Gracious God, we thank you for the time these Senators have given for the past three months away from jobs and family. We thank you for their servant ministry.

All this we pray in your name. Amen.

Sen. Brown moved that the Senate do now adjourn sine die, which motion prevailed and at 11:54 a.m. the Senate adjourned.

Kay Johnson, Secretary